

(viii) Procedures and conditions of use, including identification of any conditions of use that would likely impair the effective functioning of the CPDM.

(2) The maintenance and service life plan must address:

(i) Conditions that should govern the removal from service of the CPDM; and

(ii) Procedures that a user or others should follow when inspecting, performing maintenance and calibration, and determining when the CPDM should be removed from service.

(b) *Submission to NIOSH for approval.* A copy of the instructions and plan under paragraph (a) of this section shall be submitted to NIOSH with the application for approval of the CPDM and if substantive changes are made to the approved device or approved instructions.

§ 74.11 Tests of the continuous personal dust monitor.

(a) *Applicant testing.* The applicant shall conduct tests to determine whether a CPDM that is submitted for approval under these regulations meets the requirements specified in §§ 74.7–74.8 of this part, with the exception of durability testing, which shall be conducted by NIOSH as specified in § 74.7(g) of this part. Applicant testing shall be performed by an independent testing entity approved by NIOSH.

(b) *NIOSH testing assistance.* NIOSH will provide consultation to the applicant to identify and secure necessary testing services for meeting the requirements specified in §§ 74.7–74.8 of this part. Applicants must submit testing protocols to NIOSH prior to testing to verify that the testing protocols adequately address the requirements.

(c) *Reporting of applicant testing results.* The applicant shall include the results from testing specified under paragraph (a) of this section when submitting the application under § 74.13 of this part to NIOSH.

(d) *Intrinsic safety testing.* The applicant shall submit the CPDM to MSHA for testing and evaluation, pursuant to 30 CFR 18.68, to determine whether the electronic components of the CPDM submitted for approval meet the applicable permissibility provisions.

Subpart D—General Requirements for All Devices

§ 74.12 Conduct of tests; demonstrations.

(a) Prior to the issuance of a certificate of approval, only personnel of MSHA and NIOSH, representatives of the applicant, and such other persons as may be mutually agreed upon may observe the tests conducted. MSHA and NIOSH shall hold as confidential, and shall not disclose, principles of patentable features, nor shall MSHA or NIOSH disclose any details of the applicant's drawings or specifications or other related material.

(b) After the issuance of a certificate of approval, MSHA or NIOSH will conduct such public demonstrations and tests of the approved device as MSHA or NIOSH deem appropriate, and may reveal the protocols and results of testing considered for the approval of the device. The conduct of any additional investigations, tests, and demonstrations shall be under the sole direction of MSHA and NIOSH and any other persons shall be present only as observers.

§ 74.13 Applications.

(a) Testing of a CMDPSU will be performed by NIOSH, and testing of the pump unit of the CMDPSU will be conducted by MSHA. The applicant must submit a written application in duplicate to both NIOSH and MSHA. Each copy of the application must be accompanied by complete scale drawings, specifications, and a description of materials. Ten complete CMDPSUs must be submitted to NIOSH with the application, and one pump unit must be submitted to MSHA.

(b) Testing of a CPDM will be performed by the applicant as specified under § 74.11. The applicant must submit a written application in duplicate to both NIOSH and MSHA. Each copy of the application must be accompanied by complete scale drawings, specifications, a description of materials, and a copy of the testing protocol and test results which were provided by an independent testing entity, as specified in § 74.11(a). Three complete CPDM units must be sent to NIOSH with the